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Summary of Stakeholders' submissions on Germany*

Report of the Office of the United Nations High Commissioner for Human Rights

I. Background

1. The present report was prepared pursuant to Human Rights Council resolutions 5/1 and 16/21, taking into consideration the periodicity of the universal periodic review. It is a summary of 23 stakeholders' submissions[1] to the universal periodic review, presented in a summarized manner owing to word-limit constraints.

II. Information provided by the national human rights institution accredited in full compliance with the Paris Principles

2. DIMR stated that the Federal Republic of Germany revised its national sustainability strategy to implement the Sustainable Development Goals (SDGs). However, the SDGs were not linked to human rights, although Germany advocated for such link during the SDG negotiations.[2]

3. DIMR stated that there was a lack of effective oversight over the implementation of the national action plan on business and human rights adopted by the Federal Government.[3]

4. Referring to a relevant supported recommendation from the Universal Periodic Review of Germany (2013 review),[4] DIMR stated that the Federal Government adopted a national action plan to combat racism, which included homophobia and trans-phobia.[5]

5. Referring to relevant supported recommendations, DIMR stated that, in response to an attack on a Christmas market in Berlin on 19 December 2016, the Federal Legislator adopted counter-terrorism laws that provide for measures such as preventative detention and freedom of movement without judicial authorization, which were, were incompatible with human rights norms.[6] Furthermore, since 2015, there has been a significant expansion of

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surveillance powers and powers to exchange personal data among authorities without careful examination of their actual benefit and proportionality.[7]

6. Referring to relevant supported recommendations, DIMR stated that the Federal and Länder Legislatures were yet to revise laws that foster the practice of racial profiling. Despite some initiatives, key steps to seriously combat the practice of racial profiling were yet to be taken.[8]

7. Referring to a relevant supported recommendations, DIMR stated that the Federal Legislator has explicitly made it an aggravating circumstance under the Penal Code where a criminal offence was racially motivated.[9]

8. DIMR stated that the committees of inquiry of the Bundestag and the parliaments of several of the Länder have examined the failure of the authorities to investigate the murders committed by the National Socialist Underground (NSU) and have made numerous recommendations for reforms, particularly regarding the police and the judiciary. However, there was no comprehensive and independent study of the actual implementation of the recommendations.[10]

9. DIMR stated that although Germany noted recommendations on the independent and effective investigation of suspected police misconduct, there were some positive developments.[11] About half of the federal states have made it mandatory for police officers to wear name or number tags making them identifiable, and have established independent police complaints bodies. However, the lack of institutional and hierarchal independence when investigating allegations of police misconduct remain.[12]

10. DIMR stated that in 2015, the Federal Legislator raised the age of legal capacity under asylum and residence law from 16 to 18 years.[13]

11. Referring to a relevant supported recommendation, DIMR stated that in the vast majority of the Länder, mandatory school attendance did not apply to children living in reception centres, many of whom spent months in reception centres deprived of an education.[14] Equal opportunities for children with a migration background have not been achieved in the education system.[15]

12. DIMR stated at the 2013 review, Germany noted recommendations relating to the ban on religious attire, citing a decision of the Federal Constitutional Court of 24 September 2003.[16] However, in 2015, the Court ruled that a blanket ban on teachers wearing religious attire was impermissible,[17] leading to some federal states, amending their school laws or adopting measures to clarify the situation. In 2017, the federal legislator adopted a ban prohibiting the covering of faces by soldiers, civil servants and judges, as well as in the context of identify checks.[18]

13. Referring to a supported recommendation, DIMR stated that human rights was specified as a general educational objective in the school curricula in just 3 of the 16 federal states and their inclusion in the school curricula was largely only implicit. There was also a lack of systematic human rights education and training for professionals including judiciary, police and medical staff.[19]

14. DIMR stated that in the field of psychiatry, involuntary commitment, isolation, use of restraints, coerced administration of medication, as well as immobilization by sedation were legally permissible, pursuant to specified statutory exceptions. In practice the use of such methods were widespread and not administered in line with these exceptions.[20]

15. Referring to relevant supported recommendations, DiMR stated that persons with disabilities continued to suffer exclusion from the labour market.[21] Measures were introduced but it was early to assess their effectiveness.[22]

16. DIMR stated that it was essential for all state institutions providing child and youth services have to have independent complaints bodies in the form ombudspersons for child and youth services.[23]

17. DIMR stated that the measures introduced by the Federal Government to protect asylum seekers from violence in refugee accommodation facilities was only financed until the end of 2017. It called for the establishment of a statutory basis for these measures and for their further financing.[24]

18. DIMR noted the commencement of deliberations on the establishment of a data collections system on gender-related violence and stated that it was important that this system followed a human rights based approach.[25]

III. Information provided by other stakeholders

A. Scope of international obligations[26] and cooperation with international human rights mechanisms and bodies[27]

19. Referring to a relevant supported recommendation, JS2 stated that Germany had ratified the Council of Europe Convention on the protection of children against sexual exploitation and sexual abuse. However, there remained a need for the reinforcement of child protection measures.[28]

20. Referring to relevant supported recommendations, GMB stated that Germany was dragging its feet on signing and ratifying OP-ICESCR.[29]

21. RSF-RWB saluted the German's decision to put its weight behind the initiative to create a United Nations Special Representative for the Safety of Journalists.[30]

22. GBM called on Germany to ensure that there will be proper follow-up to the recommendations that will be made during its upcoming universal periodic review.[31]

23. JS3 stated that although Germany had committed to submit a mid-term report two years after the 2013 review, a report was not submitted.[32]

B. National human rights framework[33]

24. JS1 called for the inclusion of sexual orientation and gender identity as grounds for discrimination in the Grundgesetz für die Bundesrepublik Deutschland (Basic Law).[34]

25. GBM stated that by supporting a relevant recommendation,[35] Germany asserted that the indivisibility, universality and the interdependence of all human rights were guaranteed in legislation and practice. A bill to include social rights in the Basic Law has been submitted in the Bundestag and there was now an opportunity to make progress in incorporating the rights from ICESCR.[36]

26. BVT called for a revision of the transsexual legislation in order to make provision for a quick, transparent and accessible process of gender recognition based on self-determination.[37]

27. Referring to a relevant supported recommendation, JS2 called on Germany to provide training to children on their human rights, as well as to those people working with children such as the police and those in the health sector.[38]

C. Implementation of international human rights obligations, taking into account applicable international humanitarian law

1. Cross-cutting issues

Equality and non-discrimination[39]

28. The CoE-Commissioner noted that the General Equal Treatment Act did not cover discrimination in the area of public law. He stated that Germany should ensure that victims of discrimination by public authorities were able to enjoy the protection provided by this Act.[40] CoE-ACFC recommended that Germany reviewing the General Equal Treatment Act to ensure effective protection against discrimination.[41]

29. JS4 stated that racist positions were not limited to right-wing extremists and were widely articulated in speeches, interviews, demonstrations, publications, electoral posters and on the internet. Stereotyping and prejudices were directed against Jews, Sinti and Roma, Muslims, refugees and migrants.[42]

30. The CoE-Commissioner urged the authorities and political leaders to condemn all instances of hate speech and hate crime, and to abstain from using rhetoric that stigmatises particular groups of the society. The use of hate speech and participation in racist activities should be a basis for serious, dissuasive disciplinary measures on members of parliaments and political parties.[43]

31. The CoE-Commissioner called a significantly broadened approach to combating racism, from one that focuses almost exclusively on the activities of extremist, and notably far-right organised groups to one that reflects the reality that racism often come from individuals not associated with these groups. Germany should also look into the extent to which structural forms of racism may be preventing law enforcement authorities from providing a professional service to Germany's minority groups.[44]

32. The CoE-Commissioner called for the strengthening and independence of the Antidiskriminierungsstelle des Bundes (Federal Anti-Discrimination Agency), with the ability to investigate complaints relating to discrimination, notably racial discrimination, and to file anti-discrimination lawsuits.[45] It should be obligatory for Federal Ministries to consult the Federal Anti-Discrimination Agency on all legislative, regulatory and other major projects with a bearing on groups protected by the General Equal Treatment Act.[46]

33. Recalling its recommendation from 2013, CoE-ECRI stated that it was regrettable that significant shortcomings remained in the recording and following up to racist, xenophobic, homophobic and transphobic incidents. The police continued to use incorrect terminology and an excessively restrictive definition of hate crime for their statistics.[47] AI also noted inadequacies in the recording of data on hate crime.[48]

34. Referring to a relevant supported recommendation, JS4 stated that crime motivated by the sexual orientation of the victims were either not reported or if reported, were incorrectly classified under "other hate-motivated grounds" by the police.[49] LSVD stated that the different backgrounds and manifestations of hate crime based on sexual orientation, gender identity and expression and sex characteristics, directed against LGBTIQ* persons were ignored.[50]

35. LSVD stated that Section 46 (2) Sentence 2 of the Criminal Code was amended to ensure that hate motivation would play a greater role in determining penalties and to better inform investigations. While an express reference is made to racist motivation, other forms of hate crime are investigated on the basis of "other hate-motivated grounds". The omission of homophobic- and transphobic-motivated crime from the amended Section 46 (2) Sentence 2 of the Criminal Code was a deliberate, structural exclusion.[51] LSVD stated that a similar

problem existed with Section 130 of the Criminal Code, which identifies national, racial or religious groups or groups defined by ethnic origin as potential targets and makes no mention of LGBTIQ* persons and persons with disabilities.[52]

36. Referring to reports of ethnic and racial profiling by the police, particularly in the context of identity checks that target individuals mainly because of their race or ethnicity, AI stated that the law lacked sufficient safeguards against racial profiling and conferred wide powers on law enforcement officials to carry out identity checks.[53] The CoE-Commissioner called for the introduction of a reasonable-suspicion standard and strengthened training for law enforcement officers on conducting identity checks.[54]

37. LSVD stated that the national action plan against racism was not forwarding looking and sustainable. It marginalized LGBTIQ* persons, failed to offer any specific measures and remained non-committal.[55]

Development, the environment, and business and human rights[56]

38. JS4 stated that the "Marshallplan with Africa" by the Ministry for Economic Cooperation and Development under the auspicious of the Official Development Assistance, which involved the private sector as key stakeholders to promote private investments in infrastructure projects, had insufficient safeguards in place to ensure protection of human rights.[57]

39. AccessNow stated that licenses had been granted to German companies to export surveillance technologies to about 25 countries, many of whom had a long history of human rights abuse.[58] JS4 called for the adoption of legislation imposing obligations on all German companies operating abroad to report on the measures in place to protect human rights.[59]

40. JS4 stated that Germany's mitigation policy and its long-term targets did not sufficiently correspond to its obligation to mitigate climate change. Furthermore, a central tenant of equity in the international climate change regime was to provide financial and technical support for the implementation of mitigation and adaptation policies in developing countries. However, Germany's contribution fell short of what was actually required.[60]

Human rights and counter-terrorism[61]

41. AI stated that in response to the attack in Berlin in December 2016,[62] far-reaching counter-terrorism measures had been adopted that violated the rights to a fair trial, to privacy, to freedom of movement and to liberty.[63]

42. Referring to relevant supported recommendations relating to counter-terrorism, ECCHR stated that since the 2013 review, Germany had facilitated the deployment of drones by a third country by allowing that country the use of the Ramstein airbase in Rheinland-Pfalz for such operations.[64] The drones were deployed in operations in six countries. In permitting the use of Ramstein airbase, Germany was complicit in violations of the right to life. Many of these strikes took place outside of any armed conflict where targeted killings were unlawful.[65]

2. Civil and political rights

Right to life, liberty and security of person[66]

43. AI expressed concern about the persistent barriers to impartial, independent and effective investigations into allegations of torture and other ill-treatment against the police due to the lack of independent investigation mechanisms or oversight bodies.[67] The CoE-Commissioner expressed the importance of establishing a full independent and well-functioning complaints mechanism covering all law enforcement officials.[68]

44. AI states that in seven Länder law enforcement officials remained under no obligation to wear identification badges. Also, the Federal authorities have not imposed any identification requirement on the Federal police.[69]

45. CoE-CPT noted there have been a number of cases in which criminal investigations against police officers for the alleged use of excessive force or other claims of ill-treatment had to be discontinued, as the police officers concerned could not be individually identified.[70] It called for necessary steps to ensure that police officers wearing masks or other attire that may hamper their identification were obliged to wear a clearly visible means of identification, such as a number on their uniform.[71]

46. The CoE-Commissioner opined that the National Agency for the Prevention of Torture was a "low-profile mechanism" and that Germany did not live up to the expectations derived from the ratification of OP-CAT.[72] CoE-CPT encouraged the authorities to review the functionalities of this Agency.[73] Referring to a relevant supported recommendation, AI stated that the Agency remained inadequately resourced and the procedure for the appointment of members lacked transparency and inclusion.[74]

47. CoE-CPT considered the maximum possible period of solitary confinement of four weeks for adult prisoners in various Länder prison laws to be excessive and that soliditary confinement should be lower than 14 days. Furthermore, solitary confinement should be abolished in respect of juveniles.[75]

48. CoE-CPT encouraged the police authorities of all Länder to take steps to ensure that all persons held in access of 24 hours were offered daily outdoor exercise.[76]

Administration of justice, including impunity, and the rule of law[77]

49. JS3 stated that the Federal Constitutional Court whose role it was to assess alleged human rights violations was inaccessible due to its increasingly complicated formal rules.[78]

50. JS3 stated that the slow process in cases involving family matters was tantamount to a denial of justice. Furthermore, the Jugendamt (Youth Welfare Office) was not bound by the decision of the family court.[79] Referring to relevant supported recommendations, JS3 stated that effective judicial control over administrative decisions of the Youth Welfare Office was not established and that nothing was done to implement those recommendations.[80]

51. AI expressed concern about the "shift to so-called pre-emptive justice", which granted wide-reaching powers to the police without any formal criminal charges, and cited as an example the new broad definition of "Gefährder" ("potential attacker"), which is used to justify human rights restrictions in various newly passed laws. The broad definition of "potential attacker" and the consequently applied administrative measures undermined the right to a fair trial, presumption of innocence and the principle of legality.[81]

52. CoE-CPT called on the Federal and Länder authorities to ensure that detained juveniles were not subjected to police questioning or were not required to sign any statement in the absence of a lawyer and, ideally, a trusted adult.[82] Furthermore, the authorities should ensure that all persons detained by the police have access to a lawyer throughout their police custody, including during any police questioning, if they so desired.[83]

53. The CoE-Commissioner called for the training of actors in the criminal justice system, including judges, on how to deal with racist offences, in light of the the amendment to the Penal Code introducing racist motivation as an aggravating circumstance of an offence.[84]

Fundamental freedoms and the right to participate in public and political life[87]

54. While noting that a new law providing for the marriage of same-sex couples came into effect, ADF called for legislative protections for the freedom of conscience in instances where same-sex marriage went against individual religious or moral beliefs.[88]

55. RSF-RWB stated that journalists continued to be threatened and harassed by right-wing groups and demonstrators, sometimes without an adequate police response.[89]

56. RSF-RWB stated that during the G20 Summit in July 2017, 32 journalists had their accreditation withdrawn, with the authorities citing security concerns as a reason. In at least 10 of those cases, the withdrawal of accreditation had been based on either false assumptions or illegally stored information in police databases. Furthermore, in four cases, the German Interior Ministry admitted that the decision to withdraw the accreditation was wrong.[90]

57. AccessNow stated that the Social Network Enforcement Act which was passed in June 2017, provided for the imposition of fines on social media platforms that failed to take down content labelled as hate speech, fake news or extremist. The law placed too high of a burden on social media companies. Moreover, the financial penalty encouraged companies to take an overly broad implementation and restrict legal but controversial speech in order to avoid fines.[91] RSF-RWB stated that the Act failed to provide guidelines on determining unlawful content and furthermore, the careless use of the term "punishable false news" in its explanatory statement, was questionable.[92]

58. RSF-RWB stated that the new statutory offence of "data fencing" ("Datenhehlerei"; section 202d of the Penal Code) penalizes the handling of leaked data without ensuring adequate protection for the media. The law thereby criminalizes an important part of the work of investigative journalists and bloggers, as well as of their sources and of experts assisting in their investigations.[93]

59. RSF-RWB stated that journalists faced the risk of surveillance by the *Bundesnachrichtendienst* (Federal Intelligence Service). In October 2016, a bill was passed empowering the Federal Intelligence Service to conduct surveillance on non-EU journalists.[94]

60. Referring to relevant supported recommendations,[95] JS4 noted the observations of CEDAW that there remained a number of structural barriers and discriminatory stereotypes making women disproportionately absent from decisions making positions in both elected and appointed positions in public office and within political parties, the judiciary and academia.[96]

61. OSCE-ODIHR stated that leading up to the 24 September 2017 election, concerns were expressed about equal campaign opportunities and campaign finance regulations.[97]

Prohibition of all forms of slavery[98]

62. CoE-GRETA stated that Germany was a country of destination for victims of trafficking in persons, with the most prevalent form of exploitation of the identified victims being sexual exploitation.[97]

63. KOK called for the establishment of a human rights based approach to combating human trafficking, with the rights of trafficked persons being the centre of all relevant measures.[98]

64. Referring to a relevant supported recommendation, JS2 stated that the definition of child trafficking was not in line with international standards.[99] Furthermore, the lack of research on child prostitution has hindered the implementation of measures addressing child prostitution. Some Länder did not provide counselling centres for victims.[100]

65. Referring to relevant supported recommendations, JS2 stated that there was no nationwide support systems for underage trafficked victims or potential victims.[101] JS4 made similar observations.[102] It added that the fight against human trafficking focused on criminal prosecution with the rights of victims often remaining secondary.[103]

66. Referring to a relevant supported recommendation, JS2 stated that since the 2013 review, no work had been undertaken towards establishing a national referral mechanism for minor victims of trafficking.[104]

67. Referring to a relevant supported recommendation, JS2 stated that as of 2017, there has been an improvement in access to justice for minor victims, which included access to a lawyer, and supported given during investigations and court testimony.[105]

68. CoE-GRETA called for continuation of regular training for all professionals who may encounter victims.[106] It urged Germany to strengthen multi-agency involvement in the identification of victims by giving a formal role in the identification process to frontline line actors including NGOs and labour inspectors,[107] and called for the introduction of identification and referral procedures for child victims,[108] as well as improved identification of victims among asylum seekers and irregular migrants in detention facilities.[109]

69. CoE-GRETA urged Germany ensure inter alia that assistance to victims was not made conditional on their willingness to testify.[110] Furthermore, Germany should ensure that victims benefit from a residence permit and the rights attached thereto, and that child victims were granted a residence permit based on their best interests and not on their willingness or ability to cooperate with judicial bodies.[111]

Right to privacy and family life[112]

70. AI stated that there was an increasing number of surveillance laws that failed to satisfy the requirements of proportionality and necessity. AI cited, as examples, the reintroduction of mandatory data retention by telecommunication providers, which it considers to be, in violation of the rights to privacy and freedom, and in 2016 the granting of the power to the Federal Intelligence Service to intercept, collect and process the communication of non-EU citizens outside Germany when the interception point is in Germany. AI expressed concern that in cases of extraterritorially conducted foreigner-to-foreigner surveillance, the Federal Intelligence Service may subject non-EU citizens to surveillance that was unregulated by law.[113]

71. AccessNow stated that in June 2017, a bill was passed allowing the government to hack into encrypted messaging services during criminal investigations. The new legislation permits use of spyware to infiltrate a suspect's device and read encrypted messages.[114]

72. In relation to family-related matters, JS3 stated that the rights of children and parents have been frequently violated, and the situation has deteriorated since the 2013 review. Furthermore, there was a campaign to introduce provisions in the Basic Law that will inter alia reinforce the position of the Youth Welfare Office as the self-appointed defender of the child, overriding the natural right of parents to bring up and educate their children.[115]

3. Economic, social and cultural rights

Right to social security

73. GBM recalled that in the 2013 review it had advocated for pension values in the eastern part of Germany to be gradually adjusted and brought in line with the pension values in the western part of the country. Commencing in 2025, pensions through out the country will be calculated the same way.[116]

Right to an adequate standard of living

74. GBM stated that studies have shown that the increasingly widening gap between the rich and the poor lead to inter alia the receptiveness to right-wing extremist, racist and xenophobic views in those parts of society severely threatened by poverty. All attempts at developing a viable strategy to lower the risk of poverty had proved to be ineffective.[115]

Right to health

75. CoE-CPT stated that during its visit, the delegation received a number of complaints of verbal abuse, threats and disrespectful behaviour by staff at Brandenburg and Wasserburg Forensic Psychiatric Clinics. Moreover, at Brandenburg Forensic Psychiatric Clinic, the delegation received allegations that some vulnerable patients were repeatedly subjected to physical and verbal abuse, as well as sexual harassment and exploitation. CoE-CPT expressed concern that in all psychiatric establishment visited patients under mechanical restraint (Fixierung) were not always subjected to continuous, direct and personal supervision by a member of the health-care staff (Sitzwache).[118]

76. BVT stated that Germany should introduce regulation to address the healthcare needs of people with gender-nonconforming identities.[119]

77. OII Germany stated that a lack of knowledge and prejudices of healthcare professionals and the policies of health insurance companies impaired access to general health care for intersex people.[120]

78. OII Germany stated that there was a lack of counselling services available to parents and families of intersex infants, children and adults.[121]

Right to education[122]

79. ADF stated that home education for children was illegal and exemption from conventional schooling was extremely rare. However, several hundred families continued to home educate their children, mostly due to their religious beliefs and values conflicting with the state curricula. Heavy sanctions were imposed on some parents for not enrolling their children in conventional schools, which included fines, imprisonment and the loss of custody of their children.[123]

80. OII Germany stated that intersex people were not included in any education curriculum. In addition, sex education did not include their existence or their bodily experience and instead, perpetuated the notion that only two sexes existed.[124]

4. Rights of specific persons or groups

Women[125]

81. JS7 stated that the Federal Government's National Action Plan on Security Council Resolution 1325, lacked a specific budget allocation that would ensure sufficient resources for its implementation. Furthermore, it neither included a monitoring mechanism nor concrete indicators for assessment of the Women, Peace and Security agenda; and civil society representatives were not included in the development, conceptualisation and drafting of the Plan.[126]

82. Referring to a relevant supported recommendation, TDF stated that violence against women, especially domestic violence, remained a severe problem. The support system was overstretched, which lead to women being rejected by shelters. Also, with each Länder financing it own support system, difficulties arose when women from one Länder attempted to seek refuge in another Länder.[127]

83. TDF stated that migrant women affected by domestic violence who did not have an independent right to residence often did not separate from their husbands because of the fear of losing their residence title.[128]

Children[129]

84. JS4 stated that although the Federal Constitutional Court had recognized children as bearers of fundamental rights, children were not explicitly referred to in the Basic Law.[130]

85. JS1 stated that children should have the opportunity to actively participate in society and be able to influence the decisions that affect them.[131] It recommended that Germany lower the voting age to 14 years and continue to promote youth participation in political processes.[132]

Persons with disabilities[133]

86. Referring to a relevant supported recommendation, JS4 stated that the unemployment rate was twice as high among persons with disabilities, with such persons being clearly disadvantaged in the labour market.[134]

Minorities and indigenous peoples[135]

87. CoE-ACFC recommended that Germany actively promote equality of Sinti and Roma in socio-economic life through targeted, evidence-based measures, designed, implemented and evaluated in full consultation with representatives of Sinti and Roma and based on clear benchmarks. Also recommended, were measures to address discrimination of Sinti and Roma children in the education system, including by ending the unjustified placement of Sinti and Roma children in special schools.[136]

88. CoE-ACFC recommended that Germany promote the effective participation of Sinti and Roma in public life, particularly at the political level.[137]

89. CoE-ACFC recommended that Germany continue to support the preservation and promotion of the cultures of national minorities. Additionally, Germany should increase support to media in minority languages; and fully implement the legislation in place to promote the use of minority languages.[138]

Migrants, refugees, asylum seekers and internally displaced persons[139]

90. JS8 stated that legislation adopted in 2016 allowed for refugees and asylum seekers to be returned to a conflict region if one part of that region was deemed to be safe.[140] Also, persons with Post Traumatic Stress Disorder and torture victims requiring specialised care could be deported to places where such care was not available.[141]

91. JS8 stated that Germany had no early identification system to identify torture survivors and special vulnerable people among the refugees.[142] The accelerated asylum procedures did not allow sufficient time for traumatised torture victims to disclose their torture.[143]

92. JS8 stated that the political discourse about refugees was fuelled by statements stigmatizing certain groups of refugees as being rapists or potential terrorists. Racist stigmatization of refugees became common in public and political discourse and inadequate steps were taken by the authorities to address this issue.[144]

93. Referring to relevant supported recommendations, JS2 stated the immigration legislation was not in full compliance with the CRC insofar as it related to minors who were victims of human trafficking. Furthermore, it negatively affected the best interests of the child.[145]

94. JS5 stated that the Residence Act and the Asylum Act provide for several grounds justifying immigration detention,[146] and it called on Germany to ensure, as a priority, that those grounds were clear and foreseeable in their application, in line with the requirements of lawfulness.[147]

95. JS5 noted the ruling of the Federal Constitutional Court that placement of foreigners at an airport transit zone, did not constitute detention,[148] and stated that, pursuant to a relevant judgment of the European Court of Human Rights, Germany should recognize that the confinement of asylum seekers at airport transit zones amounted to detention and ensure detention-related guarantees to those persons.[149]

96. While noting that the Residence Act provides that a non-citizen can only be placed in detention pursuant to detention order, JS5 stated that the quality of detention orders issued by the district courts was sometimes poor.[150] It called on Germany to ensure that judges issue detention orders based on the case-by-case examination of the individual circumstances, as required by the principle of necessity.[151]

97. The CoE-Commissioner invited Germany to develop nationwide obligatory minimum standards for the operation of reception facilities to ensure that reception conditions and services available to asylum seekers were in line with human rights standards throughout the country.[152]

98. While the CoE-Commissioner noted that because of the prioritised asylum procedures for nationals from a specified third country and for religious minorities from a specified third country, he was nevertheless concerned that applicants from other countries faced long delays in processing their claims.[153] He stated that all foreign nationals requesting asylum must have access to asylum procedures and their requests examined on a case-by-case basis in a rigorous and fair manner.[154]

99. The CoE-Commissioner stated that the Dublin Regulation – which requires an examination of whether another EU country was responsible for processing an asylum claim – overburdened the German administration and court system.[155] He called on Germany to take the lead in promoting the necessary steps to replace the Dublin Regulation with a more human rights orientated system.[156]

100. The CoE-Commissioner called for strengthened efforts to improve the integration of refugees. He urged Germany to ensure refugees had the right to family reunification.[157]

101. EUFRA stated because social services had a duty to report migrants in an irregular situation to the police if they had received non-emergency care, given the risk of being reported to the authorities the right to health care for those persons remained only on paper.[158]

Stateless persons[159]

102. JS6 stated that there was no dedicated statelessness determination procedure and the administrative procedures in place did not offer all the rights and protection stipulated by the 1954 Convention.[160]

103. JS6 stated that newly born children of refugee parents living in reception facilities and emergency shelters were not receiving birth certificates. Moreover, if the parents cannot produce the required documents, such as a marriage certificate, the child will only be registered with the mother's name on the birth certificate, which is problematic for refugees from a particular third country.[161]

104. JS6 stated that the nationality law lacked comprehensive safeguards to ensure otherwise children had access to nationality, with one of its limitations being the residence status requirement of the parents.[162]

The stakeholders listed below have contributed information for this summary; the full texts of all original submissions are available at: www.ohchr.org. (One asterisk denotes a national human rights institution with "A" status)

Civil society

Individual submissions:

AccessNow	Access Now, New York, United States of America;
ADF	ADF International, Geneva, Switzerland;
AI	Amnesty International, London, United Kingdom of Great Britain and Northern Ireland;
BVT	Bundesvereinigung Trans*, Berlin, Germany;
ECCHR	European Center for Constitutional and Human Rights, Berlin, Germany;
GBM	Gesellschaft zum Schutz von Bürgerrecht und Menschenwürde, Berlin, Germany;
KOK	German Network against Trafficking in Human Beings, Berlin, Germany;
LSVD	Lesbian and Gay Federation in Germany, Köln, Germany;
OII Germany	Internationale Vereinigung Intergeschlechtlicher Menschen / Organisation Intersex International Germany (OII Deutschland) e.V., Berlin, Germany;
RSF-RWB	Reporters Without Borders, Paris, France;
TDF	Terre Des Femmes, Berlin, Germany.

Joint submissions:

JS1	German Federal Youth Council and European Youth Forum, Berlin, Germany (Joint Submission 1);
JS2	ECPAT Germany, Freiburg, Germany and ECPAT International, Bangkok, Thailand (Joint Submission 2);
JS3	Coalition of Family related NGOs for UPR of Germany comprising of Trennungsväter e.V., Forum Soziale Inklusion e.V., Väteraufbruch für Kinder, MANNdat e.V., Aucrback, Germany (Joint Submission 3);
JS4	FORUM MENSCHENRECHTE, Berlin, Germany; in cooperation with: ACAT Deutschland, Brot für die Welt, Bundesverband unbegleiteter minderjährige Flüchtlinge (BUMF), Bundesweite AG der Psychosozialen Zentren für Flüchtlinge und Folteropfer (BAFF), German NGO Network against Trafficking in Human Beings (KOK), Deutsche Kommission Justitia et Pax, Deutscher Frauenrat, FIAN Deutschland e.V., Diakonie Deutschland – Evangelischer Bundesverband, European Center for Constitutional and Human Rights (ECCHR), Gemeinschaft für Menschenrechte im Freistaat Sachsen e.V. (GMS), Germanwatch, Gesellschaft für bedrohte Völker, Humanistische Union (HU), Human Rights Watch Germany, Humboldt Law Clinic: Grund- und Menschenrechte, International Physicians for the Prevention of Nuclear War (IPPNW), German Section, Physicians in Social Responsibility, Refugio Munich, Intersexuelle Menschen e.V., Lesben- und Schwulenverband in Deutschland (LSVD), Kindernothilfe, MISEREOR, Nuremberg Human Rights Centre, Pro Asyl, Reporters without Borders German Section, TERRE DES FEMMES, terre des hommes, Vereinte Evangelische Mission (VEM), Women's International League for Peace and Freedom German Section (WILPF);
JS5	The Global Detention Project, Geneva, Switzerland and Jesuit

	Refugee Service.
JS6	Institute on Statelessness and Inclusion, Eindhoven, Netherlands and European Network on Statelessness.
JS7	Women's International League for Peace and Freedom, Geneva, Switzerland and Internationale Frauenliga für Frieden und Freiheit (IFFF), WILPF Germany.
JS8	International Rehabilitation Council for Torture Victims, Copenhagen, Denmark and MFH Bochum, Germany.
National human rights institution	
DIMR	German Institute for Human Rights, Berlin, Germany.
Regional intergovernmental organization(s)	
CoE	Council of Europe, Strasbourg, Cedex, France. Council Of Europe - European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment. Report to the German Government on the visit to Germany carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 25 November 2015 to 7 December 2015, CPT/Inf (2017) 13 (CoE-CPT). Council of Europe – Commissioner for Human Rights. Report by Nils Muižnieks, Commissioner for Human Rights of the Council of Europe following his visit to Germany on 24th April and from 4 to 8 May 2015, CommDH(2015)20 (CoE-Commissioner). Council of Europe – European Commission against Racism and Intolerance. ECRI conclusions on the Implementation of the Recommendations in respect of Germany Subject to Interim Follow-up. Adopted on 8 December 2016 (CoE-ECRI). Advisory Committee on the Framework Convention for the Protection of National Minorities. Fourth Opinion on Germany adopted on 19 March 2015, ACFC/OP/IV(2015)003 (CoE-ACFC). Group of Experts on Action against Trafficking in Human Beings. Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Germany, First evaluation round. Adopted 20 March 2015, GRETA(2015)10 (CoE-GRETA). Group of States against Corruption. Fourth Evaluation Round. Corruption prevention in respect of members of parliament, judges and prosecutors. 24 March 2017 (CoE-GRECO).
EUFRA	European Union Agency for Fundamental Rights, Vienna, Austria.
OSCE-ODIHR	Office for Democratic Institutions and Human Rights/Organization for Security and Co-operation in Europe, Warsaw, Poland.

[2] DIMR, para. 23.
[3] *Ibid*, para. 18.
[4] See the Report of the Working Group on the Universal Periodic Review, Germany, A/HRC/24/9.
[5] DIMR, para. 9 and endnote 27, referring to A/HRC/24/9, paras. 124.52 (Kazakhstan). See A/HRC/24/9/Add. 1 for the Germany's position on the recommendation.
[6] *Ibid*, para 12 and endnote 39, referring to A/HRC/24/9, paras. 124. 198 (Mexico) and 124.199 (Pakistan). See A/HRC/24/9/Add. 1 for the Germany's position on the recommendations.
[7] *Ibid*, para. 13.
[8] *Ibid*, para. 8. See also JS4, para. 30.
[9] *Ibid*, para. 7 and endnote 21, referring to A/HRC/24/9, paras. 124. 33 (Estonia) and 124.41 (Islamic Republic of Iran). See A/HRC/24/9/Add. 1 for the Germany's position on the recommendations.
[10] *Ibid*, para. 7.

11 *Ibid.* para. 11 and endnote 36, referring to A/HRC/24/9, paras. 124.127 (Botswana) and 124.128 (Hungary) and 124.130 (Netherlands). See A/HRC/24/9/Add. 1 for the Germany's position on the recommendations.

12 *Ibid.* para. 11.

13 *Ibid.* para. 2.

14 *Ibid.* para. 3 and endnote 6, referring to A/HRC/24/9, para. 124.170 (Chile). See A/HRC/24/9/Add. 1 for the Germany's position on the recommendation.

15 *Ibid.* para. 4 and endnote 12, referring to A/HRC/24/9, para. 124.116 (Djibouti) See A/HRC/24/9/Add. 1 for the Germany's position on the recommendation.

16 *Ibid.* para. 10 and endnote 29, referring to A/HRC/24/9, paras. 124.39 (Bangladesh), 124.40 (Jordon), 124.109 (Kuwait), 124.172 (Pakistan). See A/HRC/24/9/Add. 1 for the Germany's position on those recommendations.

17 See *Ibid.* endnote 30 which refers to Federal Constitutional Court, decision of 27.01.2015, case nos. 1 BvR 471/10, 1 BvR 1181/10, http://www.bundesverfassungsgericht.de/SharedDocs/Entscheidungen/DE/2015/01/rs20150127_1bvr047110.html. The Court held that a ban is possible only as a last resort if a concrete risk of jeopardizing school peace or of interference with state neutrality is established. See also EUFRA, p. 6.

18 *Ibid.* para. 10.

19 *Ibid.* para. 14 and endnote 44, referring to A/HRC/24/9, para. 124.169 (United Kingdom of Great Britain and Northern Ireland). See A/HRC/24/9/Add. 1 for the Germany's position on the recommendation.

20 *Ibid.* para. 15.

21 *Ibid.* para. 17 and endnote 55, referring to A/HRC/24/9, paras. 124.173 (Peru) and 124.174 (Austria) See A/HRC/24/9/Add. 1 for the Germany's position on those recommendations.)

22 *Ibid.* para. 17.

23 *Ibid.* para. 19.

24 *Ibid.* para. 20.

25 *Ibid.* para. 21.

26 The following abbreviations have been used in this report:

ICESCR	International Covenant on Economic, Social and Cultural Rights;
OP-ICESCR	Optional Protocol to ICESCR;
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women;
CAT	Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;
OP-CAT	Optional Protocol to CAT;
CRC	Convention on the Rights of the Child.

27 For relevant recommendations see A/HRC/24/9, paras. 124.1-124. 124.26, 124.30, 124.49 and 126.63.

28 JS2, para. 11, referring to A/HRC/24/9, para. 124.24 (Liechtenstein). See A/HRC/24/9/Add.1 for Germany's position on this recommendation. JS2 made recommendations (paras. 27 and 28).

29 GBM, para. 4, referring to A/HRC/24/9, paras. 124.11 (Sierra Leone), 124.12 (Ecuador), 124.13 (Portugal), 124.18 (Spain) 124.19 (Uruguay), 124. 20 (Bosnia and Herzegovina) and 124.21 (France). See A/HRC/24/9/Add.1 for Germany's position on this recommendation.

30 RSF-RWB, p. 4.

31 GBM, para. 9.

32 JS3, p. 3.

33 For relevant recommendations see A/HRC/24/9, paras. 124.25, 124.27, 124.42, 124.57, 124.43-124.46, 124.124.

34 JS1, p. 8.

35 The recommendations reads "Adopt measures to recognize in practice the indivisibility, equality, interdependence and universality of all human rights so that legislation and judicial practice adequately ensures the enjoyment of economic, social and cultural rights and not just civil and political rights (Ecuador)".

36 GBM, para. 3.

37 BVT, para. 11.

38 JS2, paras. 9 and 10, referring to A/HRC/24/9, para. 124.32 (Togo). See A/HRC/24/9/Add.1 for

Germany's position on this recommendation. JS2 made recommendations (paras. 27 and 28).

[39] For relevant recommendations see A/HRC/24/9, paras. 124.33, 124.64 -124.116, 124.68, 124.69, 124.76 - 124.78, 124.70, 124.81, 124.85, 124.112, 124.113, 124.154, 124.111, 124.91, 124.107, 124.108, 124.110.

[40] CoE-Commissioner, paras. 152 and 195.

[41] CoE-ACFC, p. 41.

[42] JS4, para. 12.

[43] CoE-Commissioner, para. 191.

[44] *Ibid*, paras. 148, 149 and 189.

[45] *Ibid*, paras. 29 and 69.

[46] *Ibid*, para. 30.

[47] CoE-ECRI, pp. 5-6.

[48] AI, pp. 4-5. AI made recommendations (p. 8).

[49] JS4, para. 40, referring to A/HRC/24/9, para. 124.122 (Norway). See A/HRC/24/9/Add.1 for Germany's position on this recommendation.

[50] LSVD, p. 3. LSVD made recommendations (pp.6-7).

[51] *Ibid*, pp. 2-3. See also JS4, pars. 40 and 41.

[52] *Ibid*, p. 3. LSVD made recommendations (pp. 6-7).

[53] AI, pp. 5-6.

[54] CoE-Commissioner, paras. 170 and 194.

[55] LSVD, p. 6. LSVD made recommendations (pp. 6-7).

[56] For relevant recommendations see A/HRC/24/9, paras. 124.198- 124.200.

[57] JS4, para. 14.

[58] AccessNow, para. 14.

[59] JS4, paras. 16 and 17.

[60] *Ibid*, paras. 26 and 27.

[61] For relevant recommendations see A/HRC/24/9, paras. 124.199, 124.200.

[62] On 19 December 2016, a man drove a truck through a Christmas market in Berlin, killing 12 people and injuring more than 50 people (AI, fn. 23).

[63] AI, p. 3.

[64] ECCHR, paras. 2 and 3, and referring to A/HRC/24/9, paras. 124.198 (Mexico), 124.199 (Pakistan) and 124.200 (Democratic Peoples Republic of Korea). See A/HRC/24/9/Add.1 for Germany's position on those recommendations.

[65] *Ibid*, paras. 10 and 11. ECCHR made recommendations (paras. 13 and 14). See also JS4, paras. 24 and 25.

[66] For relevant recommendations, see A/HRC/24/9, paras. 124.123, 124.125, 124.127-124.130, 124.134, 124.144 and 124.188.

[67] AI, p. 5. AI made recommendations (p.8).

[68] CoE-Commissioner, paras. 41 and 71. See also CoE-CPT, para. 19, and JS4, para. 31.

[69] AI, p. 5. AI made recommendations (p. 8).

[70] CoE-CPT, para. 21.

[71] *Ibid*, para. 22.

[72] CoE-Commissioner, para. 36.

[73] CoE-CPT, para. 11.

[74] AI, p. 1, referring to A/HRC/24/9, para. 124.43. See p. 7 for recommendations made by AI.

[75] CoE-CPT, p. 7.

[76] *Ibid*, para. 32.

[77] For relevant recommendations see A/HRC/24/9, 124.126.

[78] JS3, p. 9.

[79] *Ibid*, p. 9.

[80] JS1, pp. 2-3, referring to A/HRC/24/9, paras. 124.49 (Poland), 124.145 (Turkey) and 124.146 (Bangladesh). See A/HRC/24/9/Add. 1 for the Germany's position on those recommendations. JS3 made recommendations (p. 11).

[81] AI, p. 3. AI made recommendations (pp.8-9).

[82] CoE-CPT, para. 26.

[83] *Ibid*, para. 28.

[84] CoE-Commissioner, para. 190.

[85] For relevant recommendations see A/HRC/24/9, paras. 124.39, 124.40, 124.151, 124.168, 124.50,

124.152, 124.172, 124.149, 124.157, 124.160.

[86] ADF, paras. 3-7. ADF made a recommendation (para. 27 (a)).

[87] RSF-RWB, p. 1.

[88] *Ibid*, pp. 1-2.

[89] AccessNow, para. 9.

[90] RSF-RWB, p. 3. RSF-RWB made a recommendation (p.4).

[91] *Ibid*, p. 2. RSF-RWB made a recommendation (p. 4).

[92] *Ibid*, p. 3.

[93] JS4, para. 38, referring to A/HRC/24/9, paras. 124.71 (Norway), 124.72 (Republic of Moldova), 124.73 (Republic of Molvova), 124.74 (Djibouti), 124.75 (Paraguay) and 124.156 (India). See A/HRC/24/9/Add.1 for Germany's positions on those recommendations.

[94] RSF-RWB, pp. 3-4. RSF-RWB made a recommendation (p. 4).

[95] OSCE-OHHR, p. 2.

[96] For relevant recommendations see A/HRC/24/9, paras. 124. 138 - 124. 141, 124.147.

[97] CoE-GRETA, paras. 10 and 11.

[98] KPK, p. 6.

[99] JS2, paras. 9 and10, referring to A/HRC/24/9, para. 124.37 (Costa Rica). See A/HRC/24/9/Add.1 for Germany's position on this recommendation.

[100] *Ibid*, paras. 14 and 15, referring to A/HRC/24/9, para. 124.142 (Belarus). See A/HRC/24/9/Add.1 for Germany's position on this recommendation. JS2 made recommendations (paras. 27 and 28).

[101] *Ibid*, para. 17, referring to A/HRC/24/9, paras. 124.139 (Cambodia), 124.140 (Costa Rica), and 124.141 (India). See A/HRC/24/9/Add.1 for Germany's position on those recommendations.

[102] JS4, para. 28.

[103] *Ibid*, para. 29 referring to A/HRC/24/9, paras. 124.141 (India) and 124.147 (Greece). For Germany's position on those recommendations see A/HRC/24/9/Add.1.

[104] JS2, para. 16, referring to A/HRC/24/9, para. 124.138 (Liechtenstein). See A/HRC/24/9/Add.1 for Germany's position on this recommendation. JS2 made recommendations (paras. 27 and 28).

[105] *Ibid*, para. 18, referring to A/HRC/24/9, para. 124.147 (Greece). See A/HRC/24/9/Add.1 for Germany's position on this recommendation. JS2 made recommendations (paras. 27 and 28).

[106] CoE-GRETA, para. 79.

[107] *Ibid*, para. 137.

[108] *Ibid*, para. 137.

[109] *Ibid*, para. 138.

[110] *Ibid*, para. 150.

[111] *Ibid*, paras. 169-171.

[112] For relevant recommendations see A/HRC/24/9, para. 124.165.

[113] AI, pp. 2-3 and fn. 22. AI made recommendations (p.8). See also AccessNow, para.15. AccessNow made recommendations (p. 6). CoE-Commissioner, para. 75.

[114] AccessNow, para. 13. AccessNow made recommendations (p. 6).

[115] JS3, p. 6.

[116] GBM, para. 6.

[117] *Ibid*, para. 8.

[118] CoE-CPT, p. 8.

[119] BVT, para. 12.

[120] OII Germany, p. 4. OII Germany made recommendations (p. 5). See also AI, p. 7. AI made recommendations (p. 9).

[121] *Ibid*, p. 6. OII Germany made recommendations (p. 6).

[122] For relevant recommendations see A/HRC/24/9, para. 124.170.

[123] ADF, paras. 19.

[124] OII Germany, p. 7. OII Germany recommendations (p. 7).

[125] For relevant recommendations see A/HRC/24/9, paras. 124.35, 124.36, 124.73, 124.133- 24.136, 124.137, 124.158, 124.161 - 124.164, 124.119, 124.74, 124.156.

[126] JS7, paras. 1-3. JS7 made recommendations (para. 6).

[127] TDF, pp. 1-2, referring to A/HRC/24/9, para. 124. 137 (Slovakia). See A/HRC/24/9/Add.1 for Germany's position on this recommendation. See also JS4, para. 37.

[128] TDF, p. 2.

[129] For relevant recommendations see A/HRC/24/9, paras. 124.32, 124.37, 124.132, 124.142.

[130] JS4, para. 44.

[131] JS1, p. 4.
[132] *Ibid.* p. 7.
[133] For relevant recommendations see a/hrc/24/9, paras. 124.173-124. 178.
[134] JS4, para. 55 referring to A/HRC/24/9, para. 124.173 (Peru).
[135] For relevant recommendations see A/HRC/24/9, paras. 124.56, 124.179, 124.192, 124.180-124.182.
[136] CoE-ACFC, p. 41.
[137] *Ibid.* p. 42.
[138] *Ibid.* pp. 41-42.
[139] For relevant recommendations see A/HRC/24/9, paras. 124.28, 124.31, 124.38, 124.186, 124.184, 124.187, 124.189, 124.190, 124.193, 124.194, 124.185, 124.191.
[140] JS8, p. 2.
[141] *Ibid.* p. 3.
[142] *Ibid.* p. 2. JS8 made a recommendation (p. 2).
[143] *Ibid.* p. 4. JS8 made recommendations (p. 4).
[144] *Ibid.* p. 5. JS8 made a recommendation (p.5).
[145] JS2, paras. 23 – 26, referring to A/HRC/24/9, paras. 124.38 (Estonia), 124.183 (Nigeria), 124.194 (Belarus) and 124.197 (France). See A/HRC/24/9/Add.1 for Germany's position on those recommendations. JS2 made recommendations (paras. 27 and 28). See also JS4, para. 11.
[146] For the grounds justifying immigration detention, as articulated by JS5, see p. 4.
[147] JS5, pp. 4 and 9.
[148] *Ibid.* p. 4 and footnote 16, referring to Bundesverfassungsgericht, judgment, 14 May 1996, 2 BvR 1516/93.
[149] *Ibid.* pp. 4 and 9, and footnote 17, referring to *Amuur v. France*, European Court of Human Rights, judgment, 25 June 1996, 17/1995/523/609.
[150] *Ibid.* p. 6.
[151] *Ibid.* p. 9.
[152] CoE-Commissioner, para. 140.
[153] *Ibid.* paras. 87 and 88.
[154] *Ibid.* para. 138.
[155] *Ibid.* paras. 92 and 93. See also JS4, para. 62.
[156] *Ibid.* para. 139.
[157] *Ibid.* paras. 146 and 147.
[158] EUFRA, p. 26.
[159] For relevant recommendations see A/HRC/24/9, paras. 124.55.
[160] JS6, para. 9. JS6 made a recommendation (para. 30 (ii)).
[161] *Ibid.* paras 24 and 25. JS6 made a recommendation (para. 30(iii)).
[162] *Ibid.* para. 28. JS6 made a recommendation (para. 30 (iv)).